



for entering and checking information on the computer system, and the application review process. The staff has taken steps to resolve problems in the system used to track and approve registered aliases used by collection personnel.

Ms. Storey also reported that the Bureau does not wish to reinstitute its former practice of checking the criminal histories of applicants for collector registration. Board members agreed that such screening of collector applicants is the responsibility of the employing collection agencies.

Board members raised two issues for possible inclusion on future agendas. First, newly elected Chair Jerry Springer suggested the Board review the role of the qualified manager in the collection industry. In particular, he feels that collection agency managers should not be responsible for the fiscal activities of collection agencies. Second, industry member Betty Myers expressed concern about whether a creditor may increase the amount of a consumer's bill prior to assigning the account to a collection agency in order to recoup its collection costs. These matters will be discussed in more detail at the Board's next meeting.

Advisory Board on Private Security Services. The Advisory Board on Private Security Services met on January 23 in Inglewood. Board members discussed whether private security services may have rank designations on guard badges. Because there is concern that guards may be mistaken for police officers if they wear badges indicating "Captain," "Lieutenant," or "Sergeant," the Bureau is reluctant to allow such designations. The Board took no formal action on this matter.

The objectives and structure of the Bureau's Disciplinary Review Committee were also discussed at the January meeting. Disciplinary Review Committee members are appointed to the Advisory Board and represent both the industry and the public. The Board clarified that when a guard is disciplined, he/she is afforded an opportunity to appeal the order to the Disciplinary Review Committee. Review by the Committee costs approximately \$60 per case, and if the case can be resolved at that level, saves the Bureau \$2,500-\$3,000 which it would otherwise spend to defend a guard's appeal before the Office of Administrative Hearings.

FUTURE MEETINGS:

July 17 in Orange County (Private Security Services Advisory Board).

CONTRACTORS STATE LICENSE BOARD

Registrar: John Maloney
(916) 366-5153

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors.

The thirteen-member Board, consisting of seven public members, five contractors and one labor member, generally meets every other month. The Board maintains four committees: legislative, which monitors legislation affecting the Board; enforcement, which oversees enforcement of existing rules and regulations, including licensing requirements; licensing, which oversees the Board's licensing procedures; and administration/public information/liasion, which oversees the Board's operations and public contact. Committees meet monthly, making recommendations to the full Board for requested action.

MAJOR PROJECTS:

Hazardous Substance Removal Examination. The Board's Examination Services Unit is preparing to request Board approval to develop an examination for hazardous substance removal certification as mandated by SB 2575 (McCorquodale). (See CRLR Vol. 6, No. 4 (Fall 1986) p. 33.)

Amnesty Program. The implementation of SB 2389 (Doolittle) (see CRLR Vol. 7, No. 1 (Winter 1987) p. 39 for background information) has generated numerous inquiries and a large number of applications. SB 2389 allows unlicensed contractors to substitute experience gained prior to December 31, 1986 for the experience and knowledge requirements of section 7068 of the Business and Professions Code. Staff has responded by coordinating two one-day sessions to discuss the implementation of SB 2389 with contractor schools and consultants.

LITIGATION:

In *Parker v. Contractors State License Board*, 187 Cal. App. 3d 205 (October 29, 1986), the First District Court of Appeal reversed a trial judge's issuance of a writ of mandate directing CSLB's Registrar to set aside the agency's decision to suspend the license of California Parker Electric, Inc. (Parker). On the administrative level, Parker and related corporate entities were charged with failing to submit employee benefit contributions withheld from employees' wages to the union,

and fraudulently representing to its employees that it had done so. The administrative law judge determined that although the amounts owed to the union trust fund had been discharged in bankruptcy, the fraud involved in the failure to forward the "withheld" sums to the union (rather than the company's failure to pay the debt) was the basis for discipline. Thus, the disciplinary action did not violate federal bankruptcy law which prohibits revocation of a license solely for failure to pay a debt discharged in bankruptcy.

On petition for writ of mandate, the trial court held that the Registrar's decision to suspend violated the federal bankruptcy law because it was imposed primarily for the collection of a debt and because suspension of Parker's license would force the close of his businesses and deprive him of the "fresh start" contemplated by the Bankruptcy Code; the trial court, however, failed to make specific findings of fact on wilfulness and fraud. The appellate court reversed and remanded to the trial court with directions to make findings on those issues, because "if [Parker] committed fraud in violation of the relevant statutes, and [CSLB] decided to discipline them for such unlawful conduct,...[the bankruptcy law] does not bar such action simply because the debt arising from the fraud is subsequently discharged in bankruptcy." 187 Cal. App. 3d at 211.

LEGISLATION:

AB 394 (Waters) was introduced in the Assembly on January 27 as an urgency matter to appropriate \$377,000 from the Contractors' License Fund to reimburse the Department of Consumer Affairs for costs incurred by the Board in the 1985-86 fiscal year.

AB 188 (Bradley) would create a pilot project in up to six counties, under which a local building inspector, when checking for building or construction permits or for compliance with building laws, may issue a citation to those contracting without a contractors license.

AB 699 (Cortese), introduced February 18, would change current law regarding payments by a general contractor to specialty contractors. Existing law requires a prime building contractor to pay any specialty contractor within ten days of receipt of each progress payment, unless otherwise agreed in writing. Existing law also provides that the deliberate failure by a licensed contractor to pay money when due when he/she has the capacity to pay or has received sufficient funds is a cause for



REGULATORY AGENCY ACTION

disciplinary action. AB 699 would require the Registrar of Contractors to investigate complaints if the specialty contractor has not been paid within 35 days after submitting a bill. It would also provide that a prime contractor who has received a progress payment may not assert a defense to a disciplinary action for the deliberate failure to make payment, as specified. The bill would also enable the Registrar to gain access to financial information held by financial institutions regarding construction lenders' progress payments to a prime contractor in connection with an investigation required by AB 699.

AB 542 (*Ferguson*), introduced February 9, would rephrase existing legislative intent language to provide that CSLB shall use monies appropriated from the Contractors' License Fund to improve its administrative and investigative oversight activities and capacity.

RECENT MEETINGS:

At its January 22 meeting in San Diego, staff presented to the Board thirteen legislative proposals. The Board unanimously voted to seek immediate sponsorship for eleven of the proposals which attempt to relieve problems encountered by staff in enforcing the Contractors License Law. Two of the proposals were referred to committee for redrafting.

The Board also unanimously voted to establish a Board committee of three to meet and consider any legislation which might affect contractors. This committee is to have the intermediate power, with subsequent Board ratification, to speak for the Board in supporting any legislation in the Board's best interests. The resolution establishing the committee also authorizes it to meet in private and without notice in order to take positions on pending legislation; it is unclear whether that provision of the resolution complies with the Bagley-Keene Open Meetings Act.

In response to several recent fake fire protection system installations (see CRLR Vol. 6, No. 3 (Summer 1986) p. 27), a plumbing contractors' task force has requested the Board to take action to prevent future scandals. The task force recommends that examinations for those who install fire protection systems include not more than 10% of total exam questions on fire safety. They also request that the Contractors License Law's definition of plumbing contractors be revised to include repair of automatic fire sprinkler systems. The Board referred the matter to its Licensing Committee.

The Board voted unanimously to accept staff's revised disciplinary guidelines. These new guidelines set license revocation terms and restitution requirements for contractors who violate certain provisions of the Contractors License Law.

At its January 13 meeting in Los Angeles, the Licensing Committee heard testimony from two City of Paramount officials who stated that most signs in their jurisdiction have been installed by persons without a contractors license. The officials were of the opinion that a license should be required for such activity. The Committee is currently awaiting a new Attorney General's Opinion on whether sign installers come within the definition of a contractor as set forth in section 7026 of the Business and Professions Code. A 1968 Attorney General's Opinion states that no contractors license is required for the erection, installation, or maintenance of electrical or non-electrical signs as described in section 5227 of the Outdoor Advertising Act.

The results of a postcard consumer survey conducted in August 1986 have been compiled, and show a decline in satisfaction with the Board's enforcement against unlicensed activity.

FUTURE MEETINGS:

June 3 in Sacramento.

July 16 in San Francisco.

BOARD OF COSMETOLOGY

*Executive Officer: Harold Jones
(916) 445-7061*

In 1927 the California legislature passed Business and Professions Code sections 7300 *et seq.*, establishing the Board of Cosmetology (BOC). The Board was empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology.

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, schools, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, hires investigators from the Department of Consumer Affairs to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members, four public and three from industry.

MAJOR PROJECTS:

BOC/Board of Barber Examiners Merger. The BOC Legislative Committee has recommended that BOC adopt merger Proposal 1AA. Under the proposal, BOC and the Board of Barber Examiners (BBE) would be abolished and a new nine-member board would regulate both cosmetology and barber licensees beginning in January 1988. Changes in licensing of both professions would be determined and implemented by the new combined board. The new board would include five industry members (three cosmetologists and two barbers) and four public members, with the Governor appointing five members, and the Speaker of the House and the Chairperson of the Senate Rules Committee each appointing two members. Present board members would be eligible for appointment to the new board. (For further background information on the merger issue, see CRLR Vol. 7, No. 1 (Winter 1987) p. 1; see also LEGISLATION, *infra*, for a description of several bills which have been introduced to merge the two boards. Editor's Note: the Legislative Analyst has estimated that a merger of the two boards would result in an annual savings of \$256,000.)

At a February 1 hearing, those who commented unanimously opposed proposal 1AA. Representatives from the industry fear that the proposed distribution of the new board (with BOC outnumbering BBE by one member) would result in BBE regulation of cosmetology licenses. Executive Officer Harold Jones explained that the proposed distribution provides for a majority of industry representation on the board. He stated that this industry majority conflicts with the composition of almost all other "non-healing-arts boards," which are dominated by public members.

BOC will conduct further workshops on this subject, with additional opportunity for public comment.

Student Tuition Recovery Fund. In response to the present difficulty faced by schools of cosmetology in obtaining costly surety bonds (bonds which ensure that enrollees may recover tuition paid if the school closes), BOC has adopted a proposal to create a \$100,000 Student Tuition Recovery Fund. The fund would allow BOC to reimburse student tuition when a school closes, thereby alleviating the schools' need to be bonded.

Creation of the fund will require legislative action (see LEGISLATION, *infra*), and will involve a transfer of \$100,000 from BOC's main Contingency